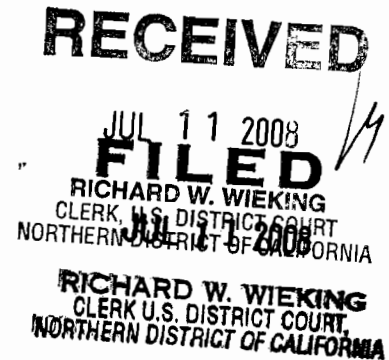


1 Jeffrey W. Tam
2 408 Yorkshire Road
3 Alameda, Ca 94501

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5
6 Date: July 9, 2008

7
8 To: Clerk, United States District Court
9 450 Golden Gate Avenue, Box 36060
10 San Francisco, California 94102



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16 UNITED STATES DISTRICT COURT
17 NORTHERN DISTRICT OF CALIFORNIA
18 SAN FRANCISCO DIVISION
19

20 JEFFREY W. TAM
21 Plaintiff
22 v.
23 JOHN E. POTTER
24 Defendant

No. 07-2747 SI
ORDER DIRECTING SUPPLEMENTAL
BRIEFING

Date: July 9, 2008

25
26
27 Re: Plaintiff replies / responds to the order directing supplemental briefing.
28 C07-02747 SI
29

30 1 On May 28, 2002, Plaintiff submitted the request to return to be a tractor-Trailer
31 operator (TTO) .to Mr. Keith Inouye and to the Union Shop Steward, Mr. Perry.
32 deposition of K Inouye Ex 6. Mr. Inouye suggested to submit the request to the
33 USPS Human Resource manager, Ms. Virginia Clover in July 2002 when
34 there was residual vacancy, deposition of K Inouye Ex 7. The return to be a TTO
35 was granted and the driving training was completed in August 2002. There must
36 be vacant TTO position in order to grant the Plaintiff to receive the driving training,
37 deposition of K Inouye Ex 8.
38

39 2 The USPS office prepares the following year bid work sheet around October.
40 Union rectifies the work schedules. The bid sheet for the drivers is available
41 in December. In September 2002, Mr. Reinosa passed away. A vacant position
42
43

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3 No. 07-2747 IS
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7 was available. More vacant TTO positions must be available in year 2002 because
8 the year 2003 TTO bid sheet had 12 residual positions available. From the month
9 of Mr. Reinosa's death to the month of the year 2003 bid sheet preparation month,
10 it was only about 2 months apart in October 2002. There were 12 vacant TTO
11 positions on the year 2003 TTO bid sheet. Obviously, those vacant positions
12 could not be appeared all at once between September and November 2002.
13 Therefore, there were TTO vacant positions through out the year 2002.
14

15 3 Plaintiff did not request for the document production to answer if the TTO positions
16 vacant in May 2002 were awarded to the part-time drivers.
17

18 4 The year 2005 TTO bid sheet had 6 vacant position for Tour 1. The Tour 2 & 3
19 bid sheets were not provided by the defendant to show those vacant record.
20

21 5 Yes, there were TTO vacant position in May 2005 and through out the year
22 from the January 2005 driver bid sheet..
23

24 6 Plaintiff did not know if all of the TTO positions vacant in May 2005 were
25 awarded to part-time drivers. In deposition of K Inouye Ex 29, question 11,
26 those four mail handlers and mail carriers from another installation. Gibert
27 Johnson, Guminder Singh, Louis Peralta and Stan Simpson Caucasian
28 were assigned to be part time fixed to MVO. They were in different scenario
29 than the Plaintiff. The Plaintiff is in the same installation to be reassigned.
30 According to the Article 39, Plaintiff should be returning as a full time TTO.
31 In disposition of k Inouye Ex 29, question 12, Steve Castillo, a part time
32 fixed was converted to a full time MVO in November 2005. Plaintiff who had
33 20 years of driving seniority in the same installation should be promoted in Nov 05.
34 Assumed that the Plaintiff was a part time fixed, but he should not be a part
35 time fixed. The Plaintiff should have more seniority than Castillo. In disposition
36 K Inouye, page 32 line 19 to 24. Mr. Inouye understood the Plaintiff had more
37 seniority than Castillo, yet, Mr. Inouye still promoted Castillo as full time fixed.
38

39 7 Yes, the plaintiff's electronic reassignment request was to request for a
40 full time TTO reassignment. Actually, plaintiff did not have to apply the
41 TTO position through the USPS eReassign, but the USPS Management
42
43

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7 has asked the plaintiff to submit the eReassign. According to the
8 eReassign, disposition of B Chadha, Ex 8, employee can not submit a
9 reassignment request to their current office in eReassign. When the
10 Plaintiff informed the Management that the e Reassign should not be
11 applied to the plaintiff, the Management requested the plaintiff to take
12 the internal examination, which the Plaintiff had a score of 81, disposition
13 of B Chadha, Ex 10. Plaintiff was then asked to be interviewed for a
14 part time job that the Plaintiff had for the last 26 years. According to the
15 USPS-APWU Joint Contract Interpretation Manual, Article 39.1.B.2
16 sets the seniority for preferred assignments for motor vehicle
17 employees who leave one position designation for another within the
18 craft and same installation and return to their former position and level.
19 The returning employee would regain the seniority the employee had
20 at the point he/she left the position designation, without credit for time
21 spent in the other position designation and level within 90 days (Article
22 39.1.B.5.c), retain their seniority, augmented by the time spent in the other
23 position designation and level, provided they remained in the same
24 installation. Article 39.1.B.5.c allows for employees returning to the motor
25 vehicle craft to regain craft seniority.

26
27 8 Since the plaintiff had submitted the requests to go back driving many, many
28 times due the staging work hours in the clerk position, plaintiff accepted the
29 Union suggestion to go back as a part time fixed TTO. Plaintiff could not
30 take on those bad working hours, which the Management had set up.

1 **CASE NO. 07-02747 SI**


2
3 **CERTIFICATE OF SERVICE**

4 The undersigned hereby certifies that he is an employee of the United
5 States Postal Services. The undersigned certifies that this reply is
6 served by First Class Mail.

7
8 To: Clerk, United States District Court
9 450 Golden Gate Avenue, Box 36060
10 San Francisco, California 94102
11
12
13
14
15
16

17 I declare under penalty of perjury under the laws of the United States
18 that the foregoing is true and correct.

19 Executed on July 9, 2008 at Alameda, California
20

21
22 
23 Jeffrey W. Tam
24

25 408 Yorkshire Road
26 Alameda, Ca 94501
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